Spitzer Industries, LLC
Terms and Conditions for Purchase of Goods and Services

1. ACCEPTANCE: By accepting the accompanying purchase order ("Order"), shipping the goods, equipment, products and associated materials ("Goods"), or commencing performance of the services ("Services") described in the Order to Spitzer Industries, LLC or any of its subsidiaries, ("Company"), the providing person, firm or entity ("Seller") agrees and accepts these Terms and Conditions for Purchase of Goods and Services ("Terms"). For ease of reference, each of Company and Seller may be referred to herein as a "Party" and collectively as the "Parties".

2. FORMATION OF AGREEMENT: Company may make an Order for Goods or Services by either (i) Company's acceptance of Seller's offer to sell within the lesser of thirty (30) days of the offer date or the stated term of the offer, or (ii) Company's issuance of an Order to Seller. In either case the Order is subject to these Terms and the Order, together with any attachments thereto and these Terms form the agreement ("Agreement") for the manufacture and sale of the Goods and/or Services. The Agreement constitutes the entire agreement between the Parties and takes precedence over all previous verbal or written arrangements in connection with the Goods or Services and the Agreement. Any Seller document received by Company is for Order identification convenience only and all provisions contained in any document, purchase order or service order which Seller may provide to Company in connection with an Order are expressly waived by Company and made inapplicable to the Agreement, unless such document is expressly incorporated to the Agreement by specific inclusion on the face of the Order. In the event of a conflict between the terms of the Order and the Terms, the Terms shall prevail except as expressly set forth herein. Notwithstanding any provision to the contrary in this Section, If the parties have executed a separate agreement governing the purchase and sale of Goods or Services and that agreement has not been terminated or revoked by a Party in writing, such agreement will supersede these Terms without the need for further action by either Party.

3. ORDER ACCEPTANCE: Seller shall be deemed to have accepted an Order the sooner of: (i) Company's written acceptance of Seller's offer to sell within the lesser of thirty (30) days of the offer date or the stated term of the offer, or (ii) Seller's written acceptance of Company's Order.

4. PRICE: Company shall pay the price indicated in the Order. Upon Seller's satisfactory completion of the Services and/or delivery of the Goods in accordance with the Order requirements, Seller may present to Company an invoice in accordance with the prices and procedures set forth herein.

5. TAXES: Prices stated herein include all taxes directly applicable to the Goods. Notwithstanding the foregoing, Company shall only be liable for such federal, state, and local taxes levied on Company which Seller is required by law to collect from Company.

6. PAYMENT TERMS: Company will pay the invoice within the terms specified on the face of the Order. Return of an incorrect invoice to Seller or a good faith dispute with respect to the amount payable to Seller will reset the due date for payment effective as of (a) the date the corrected invoice is received by Company or (b) the date that the dispute is resolved. Company shall have the right to withhold the final ten percent (10%) of the Order value until all documentation requested on the face of the Order has been submitted by Seller to Company's reasonable satisfaction. Company shall have the right (but no duty) to withhold any monies payable by it hereunder and apply the same to the payment of any obligations of Seller to Company as otherwise set forth herein.

7. COMPANY'S RIGHT TO MAKE CHANGES: Company may at any time, by written notice to Seller, make changes in the drawings, specifications, quantities, and schedules and shipping instructions under this Order (a "Change Order"). If any such change increases or decreases the cost of performing this Order or the time required for its performance, an equitable adjustment in prices and/or schedules shall be made, provided, however that any claim by Seller for such adjustment shall be presented in writing to Company within ten (10) business days from the date the change is ordered by Company. If Company, acting reasonably, considers that any such change has an effect on the price or delivery date in respect of an Order, Company shall indicate in writing on the Change Order such amendments to the relevant price or delivery date as it considers reasonable, and Seller shall not make any change in drawings, design specifications, scope of work to be performed, time and place of delivery and method of transportation without Company's written Change Order acknowledging the change.

8. TERMINATION OF ORDER: Company may at any time terminate Seller's performance under this Order, in whole or in part, by written notice to Seller, whereupon Seller shall terminate its performance upon receipt of such notice and shall terminate all orders and subcontracts to the extent they relate to such performance. Seller shall promptly advise Company of the quantities of Goods and raw material on hand or purchased prior to termination and of the most favorable disposition that Seller can make thereof. Seller shall comply with Company's instructions regarding disposition of Goods and raw materials. Seller shall submit to Company in writing notice of its intention to submit claims based on such termination within ten (10) days from the date of notice of termination, and all such claims shall be made in detail and substantiated within ten (10) days thereafter, or such claims shall be waived. Company shall pay Seller (a) the Order price of finished Goods accepted by Company up to the date of termination, (b)

reimbursement for the direct cost incurred by Seller for unfinished Goods which have been specifically manufactured for Company pursuant to the terminated Order or this Agreement plus a reasonable profit, (c) cancellation charges incurred by Seller from its vendors for any custom or non-stock Goods, and (d) *less* the agreed value of any Goods used or sold by Seller with Company's consent. Notwithstanding the foregoing, on termination Seller shall not be entitled to payment for any undelivered Goods that are Seller's standard products, and Company shall be entitled to return any such delivered Goods to Seller for a full refund of any amount paid to Seller, with Company's liability limited to the reimbursement of Seller's direct costs of handling and transportation of such Goods. Seller shall provide documentation for all such termination claims, and Company reserves the right to verify such claims at any reasonable time or times by inspecting the records, facilities, work or materials of Seller relating to this Order. Company will make no payments for finished work, work in progress, or raw materials fabricated or procured by Seller unnecessarily in advance or in excess of Company's delivery requirements under this Order. Notwithstanding the above, payments made under this paragraph shall not exceed the aggregate price specified in this Order, less any payments made or to be made. Payment provided under this paragraph shall constitute the Company's only liability in the event this Order is terminated.

9. CANCELLATION: If Seller: (a) does not meet delivery or performance schedules, (b) breaches any terms hereof, including warranties, or (c) becomes insolvent or commits any act of bankruptcy, Company will provide Seller with written notice and five (5) days opportunity to cure the foregoing. If Seller has not shown reasonable effort to cure after such five (5) day cure period, Company may cancel this Order for default with respect to all or any part of undelivered Goods or Services. In the event of cancellation for default, Company's liability to Seller shall be limited to Company's payment for Goods actually delivered to and accepted by Company in accordance with the relevant Order

10. DELIVERY: The Goods shall be suitably prepared for shipment to secure the lowest transportation rates (unless a premium method is specified on the face of the Order) and comply with carrier regulations. No charges are allowed for packing, crating, freight express, or cartage unless authorized in the Order.

11. ROUTING, RISK OF LOSS, EXCESS SHIPMENTS, DELAYS: Time is of the essence in the performance of this Order by Seller. Company reserves the right to select the mode of transportation, routing of, and the carrier for the Goods. If Seller deviates from Company's transportation instructions, Seller shall be liable for all transportation costs resulting from such deviation. Seller shall deliver goods to Company's facility from which Goods were ordered, unless otherwise specified on the face hereof. Risk of loss as to such Goods shall remain with Seller until after Goods are delivered as defined by the INCOTERMS identified in the Order. Company's weight and count are conclusive. Company shall have no liability for payment for Goods delivered in excess of the quantity ordered, and any such excess Goods shall be subject to rejection by Company and re-delivery to Seller at Seller's expense. If, prior to time for delivery of the Goods, Seller has reason to believe that it will be unable to meet its delivery schedule, it shall immediately notify Company in writing, indicate the cause of delay, use its best efforts to cure the anticipated delay at no additional cost to the Company. Upon receipt of notice of the anticipated delay or upon occurrence of an actual delay, Company may (a) direct expedited routing of Goods, with excess costs paid by Seller, or (b) cancel the Order and purchase substitute Goods elsewhere, with any excess costs and expenses resulting from such purchase of substitute Goods paid by Seller. Company's personnel shall be allowed reasonable access to Seller's facilities, and its sub-suppliers, for expediting purposes. Seller shall supply schedules and progress reports to Company for use in expediting.

12. INSPECTION OF GOODS: After receipt of Goods, Company shall have a reasonable time, but not more than seven (7) days, in which to inspect and accept or reject Goods. Company may reject Goods not conforming to the instructions, terms, conditions, specifications, drawings, data, or warranties furnished under this Order. For all rejected Goods, Company may, as determined by Company in its sole discretion (a) require that Seller provide a full refund for the Goods, (b) replacement of the Goods by Seller, at Seller's risk and expense, including transportation costs both ways, or (c) Company may purchase substitute Goods in lieu of rejected Goods, and Seller shall be liable for the difference in costs. Acceptance of part of the Goods shall not (a) bind Company to accept the remainder (b) deprive Company of the right to revoke acceptance and return any part of the Goods to Seller, or (c) waive Company's right to make a claim for damages against Seller due to the failure of the Goods to conform to this Order. Company shall not be liable to Seller for failure to accept Goods for causes beyond Company's reasonable control. Neither payment for Goods, or signed proof of delivery/packing lists (POD) from Company's authorized representative shall be considered an acceptance by Company.

13. WARRANTY/QUALITY: Seller warrants that all Goods delivered shall strictly conform to the terms, instructions, conditions, specifications, descriptions, drawings, and data specified herein or furnished herewith, shall, for a period of the earlier of 12 months from start-up or 18 months from delivery (the "Warranty Period") (a) be of good design, material, and workmanship, (b) be free from defects, (c) be merchantable and fit for their intended purpose if known by Seller, and (d) shall meet applicable industrial and governmental safety standards. Seller further warrants that Seller will have title to and the right to sell the Goods at the time of delivery, and that all Goods shall be new (unless otherwise specified in this Order) at the time of delivery. Seller shall also assign or otherwise transfer to Company the warranties on goods and

services incorporated into Goods and Services sold hereunder. All such warranties shall survive any inspections, delivery, acceptance or payment by Company, and all such warranties shall run to Company, its successors, assigns, customers and users of Goods. No warranties hereunder shall be deemed disclaimed except in a writing signed by an authorized representative of Company. Repairs or replacements of the Goods shall be made by Seller, without cost to Company, at any time within the Warranty Period of the Goods, when the Goods are deemed defective by Company.

14. LIENS: Upon request, Seller shall furnish receipts and releases showing that all costs and expenses of manufacturing and delivering the Goods and/or Services have been paid and that no third-party claims, liens, or rights of liens exist by reason thereof against Company or Company's customer or their property. Seller shall defend, indemnify and hold Company and Company's customer harmless from all such liens or claims arising out of or connected with the Goods or Services.

15. INFRINGEMENT: Seller shall protect and indemnify Company for any cost or expense arising from a claim of infringement of any intellectual property right of a third person by any of the Goods delivered or Services performed hereunder. Seller shall defend or settle, at its own expense, any lawsuit, action, or proceeding brought against Company. In the event that Company should be enjoined from use of the Goods as a result of such lawsuit or proceeding, Seller shall pay all of Company's costs and expenses and at Company's option may: (a) secure cancellation of the injunction; (b) replace the Goods with non-infringing Goods at Seller's expense; (c) remove the Goods from Company's premises and refund to Company the amount paid for the Goods. The provisions of this paragraph shall not apply to any claims, demands, and lawsuits or injunctions where Goods have been manufactured by Seller in accordance with Company's specific design.

16. INDEMNIFICATION: Seller shall defend, indemnify and save harmless Company and its parent or partners, and their directors, officers, employees, agents and subcontractors (collectively "Company Group") from and against any loss, cost, damage, or expense, arising from any claims which may be made against Company by reason of injury or death to any person or damage to any property, alleged to have been caused by defective Goods or by any act or omission, negligence or strict liability of Seller or any subcontractor of Seller or of any of their employees, workmen, servants, or agents (collectively "Seller Group"). In no event shall Seller be required to indemnify Company for any injury, death, or loss caused solely by the negligence of Company.

17. BREACH: In no event shall either party be liable to the other party for special, indirect, punitive, incidental or consequential damages arising out of the Agreement, including without limitation, as a result of the failure of any Goods to operate properly, any damage occasioned by delay, downtime, lost production, lost business opportunity, or lost profits.

18. INSURANCE: Seller shall obtain and maintain, at its sole cost and expense, the following insurance and shall provide to Company a Certificate of Insurance evidencing such insurance is in full force and effect at the time of delivery of the Goods or performance of the Services under the Agreement:

(a) Worker's Compensation as required by law and regulations applicable to and covering employees of Seller engaged in the performance of the Services and provision of the Goods under the Order at the statutory limits for the state or states in which the work is to be performed;

(b) Employers Liability with coverage of not less than $1,000,000;

(c) Commercial General Liability with coverage of not less than $1,000,000 combined single limit per occurrence including Premises and Operations, Independent Contractors, Contractual Liability and Products and Completed Operations coverage;

(d) Automobile Liability (including owned, hired and non-owned vehicles) with coverage of not less than $1,000,000 combined single limit per occurrence; and

(e) Excess Liability (umbrella form) with limits of not less than $1,000,000.

Upon Company's request such insurance shall waive subrogation against Company and its insurers and name Company as additional insured(s), and such coverage shall be primary to that carried by Company. The indemnity obligations Seller assumes under the terms of this Order are independent of the contractual insurance requirements set out above, and such indemnity obligations shall not be lessened or extinguished by reason of Seller's failure to obtain the required insurance coverage, the insufficiency of such coverage, or by any defenses asserted by Seller's insurers. Seller shall cause its shipper to furnish to Company a certificate of insurance showing that Seller has verified insurance coverage.

Such certificate shall set forth the insurance company, amount of coverage, the policy members and date of expiration, and Seller shall ensure it issues a written thirty-days-notice-of cancellation- to- Company. Such insurance coverage shall be maintained by Seller at all times during the performance of the Services or provision of Goods. Compliance by Seller with these insurance requirements does not affect Seller's indemnification or other liabilities under this Order.

19. SAFETY: Company's HSE requirements shall be observed at all times while on Company's premises. Such requirements are a part hereof and Supplier acknowledges that it has read and agreed to the requirements. The requirements can be found at www.spitzerind.com under the HSE link.

Failure to observe the requirements shall be a major breach hereof and Company reserves the right to cancel this Order for such breach.

20. FORCE MAJEURE: The consequences, direct or indirect, of labor troubles, acts of God, fires, accidents, floods, hostilities, shortage of transportation, failure or suspension or curtailment of production due to shortage of labor or supply of raw materials, or other economic factors, government acts or requirements and any and all like or different causes beyond the control of the Parties shall excuse performance, except the obligation to make payment, by either Party to the extent by which performance is prevented thereby. The Party claiming Force Majeure shall promptly notify the other Party in writing of such event.

21. ASSIGNMENT: None of the amounts due or to become due nor any of the Goods or Services to be provided to Company under this Order shall be assigned or subcontracted by Seller without the prior written consent of Company's authorized representative. With regard to any assignment or subcontract under this Order, Seller shall remain obligated to Company as if no assignment or subcontract had been made. All assignees, contractors, and those who provide Goods or Services, directly or indirectly to Company under this Order shall be bound by the terms and conditions of this Order in the same manner as Seller, and Company shall be subrogated to Seller's rights under any assignment or subcontract.

22. COMPANY'S PROPERTY; CONFIDENTIALITY: Company retains title to all information and materials furnished to Seller to facilitate performance under this Order, and the same shall be (i) treated as Company's confidential information, (ii) used exclusively by Seller to complete this Order, and (iii) returned to Company at its direction or upon completion, termination, or cancellation of this Order, along with copies or reproductions thereof, unless otherwise agreed to in writing by Company.

All property of Company furnished or made available to Seller for performance of work under this Order, shall remain property of Company and shall be segregated from Seller's property and be individually marked and identified as Company's property. Such property shall be used exclusively for performance under this Order and shall be returned to Company at its written request, or upon termination, cancellation or completion of this Order. The Seller shall: maintain such property in good condition and assume all risks and liabilities for losses arising from its use of Company's property; purchase insurance to cover the risks and liability assumed herein and furnish Company evidence of such insurance upon request; permit inspection of such property by Company; furnish detailed statements of such inventory; and fully cooperate and assist Company in any effort by it to obtain possession of such property through court proceedings or otherwise.

23. SPECIAL TOOLING: (a) "Special tooling" means all patterns, dies, fixtures, molds, jigs, models, gauges, inspection devices, special cutting tools, special test devices, drawing, and templates, and any replacements thereof, which, prior to the date of this Order, were not owned or used by Seller and which Seller has been or will be required to acquire and use solely for the purpose of furnishing Goods under this Order. Special tooling does not include tools, capital items, or property owned by or furnished by Company. Before commencing work under this Order, Seller agrees to obtain prior written approval of the Company as to the purchase of any special tooling, and such request shall describe in detail each item and the price thereof. (b) Seller agrees that all special tooling shall be used exclusively for performance of work under this Order or as directed by Company in writing, and agrees to maintain special tooling in good condition, fully covered by insurance, and to replace it at Seller's cost if lost, stolen, destroyed, or otherwise rendered unfit for use. Seller agrees to permit inspection and to supply Company with detailed statements of inventory of the special tooling upon request. Upon completion, cancellation, or termination of the work for which such special tooling is required, Seller shall prepare a list of Goods for which special tooling has been used, together with a detailed listing in a form acceptable to Company of the special tooling, including the unamortized cost and fair market value of each item, and shall by written assignment transfer possession and title to the special tooling to Company, free and clear of liens and encumbrances, in exchange for the lesser of the unamortized cost or fair market value of the tooling, except that Company shall be under no obligation to purchase such special tooling. Company reserves the right to dispose of special tooling without taking possession thereof and to receive any salvage or resale revenues resulting there from. Seller agrees that Company shall have the right to enter Seller's premises for the purpose of obtaining possession of any special tooling.

24. COMPLIANCE: Seller shall comply with all federal, state, and local laws, rules and regulations including but not limited to worker's compensation, social security, federal, state, and local income tax withholdings, unemployment insurance, the Occupational Safety and Health Act, the Exchange Act Section 13(p), Rule 13p-1 and Item 1.01 concerning Conflict Minerals management, the Immigration Reform and Control Act of 1986, the Americans with Disabilities Act, and all laws affecting employment, business opportunities, and the environment which are now or may in the future become applicable to Seller and/or Seller's business, equipment, and employees and/or the provision of the Services. Seller shall be solely responsible for the timely payment of any and all employment related taxes with respect to Services performed by Seller. In the event that Seller's employee or its subcontractor's employees are deemed to be Company employees by any government authority, Seller shall reimburse Company for any corresponding taxes or fees paid by Company.

Seller shall furnish Company evidence of compliance as Company may require at any time.

25. CHOICE OF LAW: This Agreement, including all matters relating to the validity, construction, performance, and enforcement thereof, shall be governed by the laws of the United States of America and the State of Texas, without reference to the conflict of laws principles of either body of law. The Parties specifically agree to bring all legal action(s) regarding interpretation, enforcement, and/or any other aspect of this Agreement in the federal or state courts of Houston, Harris County, Texas and hereby waive their rights to a trial by jury. The substantially prevailing party in any litigation shall be entitled to recover its attorneys' fees and costs from the other party. The "substantially prevailing party" shall be the party that prevails on 51% or more of the total amount of its claim.

26. DEFAULT: A Party shall be in default if it becomes insolvent, makes a general assignment for the benefit of its creditors, applies for or consents to the appointment of a receiver, trustee, or liquidator of all or substantially all of its assets, has an involuntary petition in bankruptcy filed against it which is not dismissed within forty-five (45) days, fails to pay its debts and obligations as they become due, commits any breach of this or any other Agreement between the Parties, or if a Party reasonably believes that any of the above events is likely to occur. Upon such default, the non-defaulting Party may, without prejudice to any of its other rights, immediately terminate this Agreement without liability for termination by issuing written notice to the defaulting Party. Any termination of this Agreement shall be without prejudice to the accrued rights of the Parties existing on the date of such termination, and the continuation in force of all provisions of this Agreement intended to survive such termination.

27. IMPORT/EXPORT AND TRANSPORTATION: For Goods that will be imported into any other country, Seller shall comply with all import laws and administrative requirements associated with any importation of Goods; and pay any duties, taxes, and fees associated with such importation to the extent that the Seller is the importer of record or otherwise controls the import entry process.

28. GENERAL PROVISIONS: If any part of this Agreement contravenes any applicable statutes, regulations, rules, or common law requirements, then, to the extent of, and only to the extent of, such contravention, such part shall be severed from this Agreement and deemed non-binding while all other parts of this Agreement shall remain binding. No modification of this Agreement shall be of any force or effect unless in writing and signed by an authorized signatory of both Parties and expressly identified as a modification to this Agreement. Failure to enforce any or all of the terms and conditions of this Agreement in a particular instance or instances shall not constitute a waiver thereof or preclude subsequent enforcement thereof. Reference to the singular includes a reference to the plural and vice versa. Reference to one gender includes reference to the other gender. The headings, sub-headings, and other subdivisions of this Agreement are inserted for convenience only. The Parties do not intend them to be an aid in legal construction. The provisions of this Agreement which by their nature are intended to survive the termination or expiry of this Agreement will remain in full force and effect after said termination or expiry. This Agreement has been carefully read, the contents hereof are known and understood, and it is freely entered into by the Parties. This Agreement shall not be construed against the Party responsible for drafting any section alleged to be ambiguous or uncertain.

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